

California Regional Water Quality Control Board
North Coast Region

CLEANUP AND ABATEMENT ORDER NO. R1-2006-0036
and
WATER CODE SECTION 13267(b) ORDER

FOR

WAYNE HUNT
ISABEL B. LEWRIGHT
dba
UKIAH AUTO DISMANTLERS
ID NO. 1 23I017330
and
RICHARD MAYFIELD
dba
WARRIOR INDUSTRIES INC.
and
ROSS JUNIOR AND PAULA MAYFIELD

Mendocino County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. The Ukiah Auto Dismantlers, APN 169-19-048 (hereinafter Facility) is an auto dismantler with retail parts sales and car crushing located at 520 Pinoleville Road approximately one mile west of Ukiah, California. The property is owned by Wayne Hunt and Isabel B. Lewright and operated by Mr. Hunt. An adjacent parcel immediately to the east of the Facility is owned by Richard Mayfield dba Warrior Industries Inc, and Ross Junior and Paula Mayfield, APN 169-19-047 (hereinafter Adjacent Property Owner). The Facility uses a portion of the adjacent property to store the car crusher and a portion of the cars. The Facility, the Facility owners and operators, and the owners of both properties are collectively referred to herein as “the Dischargers.”
2. The Facility submitted a Notice of Intent for coverage under the Statewide General Permit for Discharges of Storm Water Associated With Industrial Activities (hereinafter General Permit) on June 18, 2002. The General Permit prohibits discharges of material other than storm water that are not authorized by the General Permit and discharge of pollutants that may cause a pollution or nuisance.
3. The scope of this Order with respect to the Adjacent Property and Adjacent Property Owner is limited to those historical, existing and future activities related to operations and usage of the Facility by the Dischargers.
4. A levee separates several parcels located within the 100-year floodplain, including the Facility and the Adjacent Property Owner’s site, from Ackerman Creek. The majority of surface runoff from the Property flows northward via sheet flow until it reaches the levee separating the Facility from Ackerman Creek. Storm water is diverted along a ditch eastward and parallel to Ackerman Creek to a retention basin located on the Adjacent Property Owner’s parcel. During recent storm events, the retention basin overflows onto lands owned by the Pinoleville Pomo Nation.
5. Based on interviews during the inspections, floodwaters reportedly overtopped, or flowed around, the levee during the flood events experienced in late December 2005 and early 2006. Ackerman Creek is a tributary to the Russian River. The Russian River provides habitat for steelhead trout, chinook salmon, and coho salmon, which are listed as threatened under the Endangered Species Act.

6. In January 2006, the Office of Emergency Services informed the Regional Water Board staff via electronic mail of a potential discharge of oily waste from the Facility. On January 19, 2006 and February 6, 2006 Regional Water Board staff conducted site inspections. The Department of Fish and Game inspected the Facility in late-January 2006 and accompanied Regional Water Board staff during the February 6, 2006 inspection.
7. Regional Water Board staff inspections (Attachment A to this Order) found: 1) Lack of impervious working surfaces and containment structures for auto dismantling 2) Car crushing activities off the impervious pad designated for such activities; 3) Lack of covered and contained parts storage; 4) Handling practices that would allow automotive fluids to contact soil and potentially become entrained in surface water runoff as well having the potential to enter groundwater; 5) Offsite discharge of storm water containing floating oil and numerous areas on the Facility and the Adjacent Property where spillage or floating oil was noted, and; 6) The Storm Water Pollution Prevention Plan was not onsite and not available during the initial inspection.
8. Results of the Department of Fish and Game's inspection noted several potential violations related to the lack of a hazardous materials business plan and contingency plans onsite, and lack of a current CUPA permit.
9. Beneficial uses of Ackerman Creek, a tributary to the Russian River, are:

Existing:

- a. Municipal and domestic water supply (MUN)
- b. Agricultural supply (AGR)
- c. Industrial service supply (IND)
- d. Ground water recharge (GWR)
- e. Freshwater replenishment (FRESH)
- f. Navigation (NAV)
- g. Contact water recreation (REC-1)
- h. Non-contact (REC-2) water recreation
- i. Commercial and Sport fishing (COMM)
- j. Warm freshwater habitat (WARM)
- k. Cold freshwater habitat (COLD)
- l. Wildlife habitat (WILD)
- m. Preservation of rare, threatened or endangered species (RARE)
- n. Migration of aquatic organisms (MIGR)
- o. Spawning, reproduction, and/or early development (SPWN).

Potential:

- p. Shellfish harvesting (SHELL)
- q. Aquaculture (AQUA).

10. The beneficial uses of the groundwater, as designated in the Basin Plan, include:

Existing:

- a. Municipal and Domestic Supply (MUN)
- b. Agricultural Supply (AGR)
- c. Industrial Service Supply (IND)
- d. Native American Culture (CUL)

Potential:

e. Industrial Process Supply (PRO)

11. The Dischargers named in this Order have caused or permitted or threatened to cause or permit, waste to be discharged where it is, or probably will be, discharged into waters of the State and create, or threaten to create, a condition of pollution or nuisance. The discharge and threatened discharge of contaminants may have unreasonably affected water quality in that the discharge or threatened discharge is deleterious to the above described beneficial uses of State waters, and may have impaired water quality to a degree which creates a threat to public health and public resources and therefore, constitutes a condition of pollution or nuisance. These conditions threaten to continue unless the discharge or threatened discharge is abated.
12. The California Water Code, and regulations and policies developed thereunder, require cleanup and abatement of discharges, and threatened discharges of waste to the extent feasible. Cleanup to background levels is the presumptive standard. Alternative cleanup levels greater than background concentrations shall be permitted only if the Dischargers demonstrate that: it is not feasible to attain background levels; the alternative cleanup levels are consistent with the maximum benefit to the people of the State; alternative cleanup levels will not unreasonably affect present and anticipated beneficial uses of such water; and they will not result in water quality less than prescribed in the Basin Plan and Policies adopted by the State and Regional Water Board. Any proposed alternative that will not achieve cleanup to background levels, must be supported with evidence that it is technologically or economically infeasible to achieve background levels, and that the pollutant will not pose a substantial present or potential hazard to human health or the environment for the duration of the exceedence of background levels (SWRCB Res. Nos. 68-16 and 92-49, Title 23, California Code of Regulations Section 2550.4, subds. (c), and (d)).
13. Discharge prohibitions contained in the Basin Plan apply to this Site. State Water Resources Control Board Resolution 68-16 (Non-Degradation Policy) applies to this Site. State Water Resources Control Board Resolution 92-49 applies to this Site and sets out the "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Section 13304 of the California Water Code."
14. The Water Quality Control Plan for the North Coast Region (Basin Plan), Chapter 3, contains specific standards and provisions for maintaining high quality waters of the state that provide for the beneficial uses listed above. In the Basin Plan, the section entitled OBJECTIVES FOR INLAND SURFACE WATERS, ENCLOSED BAYS AND ESTUARIES includes the following water quality objectives, which are violated or threatened to be violated:
 - a. Floating Material - *"Waters shall not contain floating material, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses."*
 - b. Oil and Grease - *"Waters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses."*

- c. Toxicity - *“All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal or aquatic life.”*
 - d. Chemical Constituents - *“Waters designated for use as domestic or municipal supply (MUN) shall not contain concentrations of chemical constituents in excess of the limits specified in California Code of Regulations, Title 22, Chapter 15, Division 4, Article 4, Section 64435 (Tables 2 and 3), and Section 64444.5 (Table 5) and listed in Table 3-2 of the Plan”.*
 - e. Taste and Odor - *“Waters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, or that causes nuisance or adversely affect beneficial uses.”*
15. Water Quality Order No. 97-03 DWQ (General Storm Water Permit) regulates storm water discharges and authorized non-storm water discharges from specific categories of industries. Applicable portions of the Permit that are being violated, or threatened to be violated, are:
- a. Discharge Prohibitions A.1 - *“Except as allowed in Special Conditions (D.1) of this General Permit, materials other than storm water (non-storm water discharges) that discharge directly or indirectly to waters of the United States are prohibited. Prohibited non-storm water discharges must be either eliminated or permitted by a separate NPDES permit.”*
 - b. Discharge Prohibitions A.2 - *“Storm Water discharges and authorized non-storm water discharges shall not cause or threaten to cause pollution, contamination, or nuisance.”*
 - a. Effluent Limitations B.3 - *“Facility operators covered by this General Permit must reduce or prevent pollutants associated with industrial activity in storm water discharges and authorized non-storm water discharges through implementation of BAT¹ for toxic and non-conventional pollutants and BCT² for conventional pollutants. Development and implementation of an SWPPP³ that complies with the requirements in Section A of the General Permit and that includes BMP's⁴ that achieve BAT/BCT constitutes compliance with this requirement.”*
 - d. Receiving Water Limitations C.1 - *“ Storm water discharges and authorized non-storm water discharges to any surface water of ground water shall not adversely impact human health or the environment.”*
 - e. Storm Water Pollution Prevention Plan Requirements Section A.2 - *“... The SWPPP shall be revised whenever appropriate and shall be readily available for review by facility employees or Regional Water Board inspectors.”*
16. The following sections of the Porter-Cologne Water Quality Control Act authorize the Regional Water Board Executive Officer to make the following requirements for persons

¹ Best Available Technology Economically Achievable

² Best Conventional Pollutant Control Technology

³ Storm Water Pollution Prevention Plan defined in Section A of the General Permit

⁴ Best Management Practices

suspected of violating the applicable Waste Discharge Requirements and Basin Plan prohibitions:

- a. Section 13267(a) - *“A regional board, in establishing or reviewing any water quality control plan or waste discharge requirements, or in connection with any action relating to any plan or requirement or authorized by this division, may investigate the quality of any waters of the state within its region.”*
 - b. Section 13267(b) - *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or proposes to discharge waste within its region...that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires.”*
 - c. Section 13267(c) - *“In conducting an investigation pursuant to subdivision (a), the regional board may inspect the facilities of any person to ascertain whether the purposes of this division are being met and waste discharge requirements are being complied with. The inspection shall be made with the consent of the owner or possessor of the facilities or, if the consent is withheld, with a warrant duly issued pursuant to the procedure set forth in Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection may be performed without consent or the issuance of a warrant.”*
 - d. Section 13304(a) - *“Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirement or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts.”*
17. All of the technical reports required by this Order are necessary to ensure that the prior harm and future threat to water quality created by the discharges described above are properly abated and controlled. The financial burdens of preparing these reports bear a reasonable relationship to the needs for the reports and the benefits to be obtained from the reports.
 18. Reasonable costs incurred by Regional Water Board staff in overseeing cleanup or abatement activities are reimbursable under Section 13304(c)(1) of the California Water Code.
 19. This Order in no way limits the authority of this Regional Board to institute additional enforcement actions or to require additional investigation and cleanup at the facility consistent with California Water Code. This Order may be revised by the Executive Officer as additional information becomes available.
 20. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

21. Failure to comply with the terms of this Order may result in enforcement under the California Water Code. Any person failing to provide technical reports containing information required by this Order by the required date(s) or falsifying any information in the technical reports is, pursuant to Water Code Section 13268, guilty of a misdemeanor and may be subject to administrative civil liabilities of up to one thousand dollars (\$1,000.00) for each day in which the violation occurs. Any person failing to clean up or abate threatened or actual discharges as required by this Order is, pursuant to Water Code Section 13350(e), subject to administrative civil liabilities no less than five hundred dollars per day (\$500.00) for each day of violation and up to five thousand dollars (\$5,000.00) per day for each day of violation; or ten dollars (\$10) per gallon of waste discharged.
22. Any person affected by this action of the Regional Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with California Water Code Section 13320 and Title 23, California Code of Regulations, Section 2050. The petition must be received by the State Water Board within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

In addition to filing a petition with the State Board, any person affected by this Order may request the full Regional Water Board to reconsider this Order. To be timely, any such request must be made within 30 days of the date of this Order. Note that even if reconsideration by the Regional Water Board is sought, filing a petition with the State Water Board within the 30-day period is necessary to preserve the petitioner's legal rights. If a request to reconsider this Order is made to the Regional Water Board or a petition filed with the State Water Board, all terms of the Order remain in effect and must be complied with while the request for reconsideration and/or petition is considered.

THEREFORE, IT IS HEREBY ORDERED that, pursuant to California Water Code Sections 13267(b) and 13304, the Dischargers shall cleanup and abate the discharge and threatened discharge of the pollutants described above and shall comply with the following provisions:

A. Short-Term Abatement:

All work performed shall be conducted in accordance with all local ordinances. All necessary permits shall be obtained.

1. Take actions to immediately abate the discharge of storm water containing oily waste, petroleum, and auto-related pollutants forthwith. This shall include, but not limited to:
 - . Installation of a temporary, lined oil/water separator, or equivalent, an oil collection area and use of adsorbent booms and pads to remove floating product, as needed.
 - . Interim measures to prevent, to the extent possible, the discharge of pollutants in storm water, such as installation of an onsite storm water runoff containment area, or surface water run-on diversion.
 - . Cleanup of all floating oil and grease and petroleum products.
 - . Containment and disposal of all solid and liquid debris or waste, for example absorbent pads used to remove floating product, leaking cars or other material, that

- obviously contribute to floating products or discharge of automotive-related pollutants.
- . Temporary containment for the car crusher and implementation of interim operating practices to prevent discharges to soil from the car crushing activities.
 - f. Cleanup of all solid waste, oily materials, and soils discharged offsite during the recent flood events to the extent practicable.
2. By May 13, 2006 submit a report to the Executive Officer documenting all activities undertaken to date. Written descriptions, a site map showing locations, field marking of locations and photo-documentation shall be included in the report.

B. Long Term Abatement

All soil and water investigations and any storm water conveyance and treatment systems shall be conducted in accordance with all local ordinances and under the direction of a California Registered Geologist or Registered Civil Engineer experienced in the investigation and cleanup of petroleum hydrocarbons and pollutants related to auto dismantlers.

1. By June 1, 2006, the Dischargers shall submit a proposal to the Executive Officer detailing long-term Facility improvements, both capital and operational, designed to prevent the discharge of automotive fluids and automotive-related pollutants to soil, surface water and groundwater. This proposal shall include, but not be limited to:
- . Improvements to the automotive processing area such as installation of impermeable working surfaces and roof structures to prevent rainfall from contacting the area, to the extent practicable, in order to prevent discharge of automotive fluids to soil and groundwater.
 - . Containment structures surrounding the automotive processing area to collect and direct all rainfall runoff and spills within the processing area.
 - . Improvement to the car crushing process to eliminate discharge of automotive-related pollutants.
 - . Treatment or disposal processes to eliminate, or treat storm, water runoff from the automotive processing and car crushing areas.
 - . A time schedule to install and implement improvements.
 - . Generalized site map of the Facility and improvements.
 - . Detailed design drawing of improvements, as needed.
 - . Improvements to parts storage and handling to include roofing, impermeable bases, and /or a process to clean parts to eliminate automotive-related pollutants from contacting storm water.
 - . Improved practices to reduce and/or eliminate the discharge of automotive fluids from cars in the storage area.

- . Design of surface water drainages and treatment processes to ensure storm water pollutant removal before discharge from the Facility and the adjacent property.
- . Written operations plan and employee training plan to ensure proper operations at the Facility.

C. Soil and Ground Water Investigation

By June 1, 2006, the Dischargers shall prepare and submit a workplan proposing a limited soil and groundwater investigation focusing on assessing the groundwater quality under, and emanating from, the Facility and Adjacent Property and assessing the extent of soil contamination that would impair either surface water or groundwater. The workplan should include, but not be limited to:

- . Map of the Facility, surrounding properties, and Ackerman Creek.
- . Location of all known wells within ½ mile of the Facility.
- . Location of onsite septic or domestic waste disposal systems.
- . Identify location of major activities, current and historical.
- . Proposed soil and groundwater sampling locations, sample techniques, and suite of analytes.
- . Determining the direction of groundwater flow.
- . A time schedule to implement the workplan and submit a final report of results. The time schedule shall be approved by the Executive Officer and activities shall be conducted in accordance with the approved schedule.

If, for any reason, the Discharger is unable to perform any activity or to submit any document in compliance with the schedule set forth herein or in compliance with any work schedule submitted pursuant to this Order and concurred with by the Executive Officer, the Discharger may request, in writing, a specified time extension. The extension request must be received by the Regional Water Board at least five days in advance of the due date, and shall include justification for the delay, including a description of good faith efforts performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all dependent dates. An extension may be granted for good cause, in which case this Order will be revised accordingly. A failure to deny a requested extension of time in writing shall not be deemed approval.

Ordered by _____
Catherine Kuhlman
Executive Officer

March 30, 2006